

**Legislative Reporting Requirement
Public Act 252 of 2014, Section 601**

Performance and Road Construction Warranties
Fiscal Year 2015

“The department shall report to the legislature on policy options to strengthen and expand the use of road construction warranties or other measures to increase accountability related to the performance of construction projects on both state and local roads. The department shall complete and submit the report to the state budget director, the house and senate appropriations subcommittees on transportation, and the house and senate fiscal agencies on or before November 1, 2014.”

Michigan Department of Transportation (MDOT) has consistently been one of the top state DOTs in the nation in the number and value of road construction warranties it requires. Since 1997, when legislation was enacted requiring the department secure warranties “where possible,” there have been a total of more than 3,200 warranty projects for roads and bridges. Just over 12 percent of warranty projects have required corrective action by the contractor.

Since this Fiscal Year 2015 budget requirement was added to the existing warranty requirement in statute, MDOT has responded to the interest of State Legislative members in developing specific language to expand construction warranties. MDOT has worked extensively with members of the State Legislature, other road agencies, and members of the road construction industry on the development of such legislation. Those conversations have been fruitful, and have helped to contribute to proposed legislation which will expand construction warranties for state and local projects:

- HB 5460 would amend Act 51 to require the Department and counties and cities where possible to obtain pavement warranties for full replacement or appropriate repair for construction work on pavement projects over \$1,000,000, and all other projects for new construction or reconstruction. It would require lists of warranted and unwarranted MDOT projects, and require local agencies to submit a proposed warranty program to MDOT for approval. It would repeal the current five-year minimum on MDOT warranties. (S-3 passed the Senate.)

There are many factors to be balanced in the expansion of warranty requirements, and these were considered in the conversations leading to the development of legislative language. Some projects lend themselves to warranties, but others do not (such as demonstration projects implemented to evaluate new methods, materials or design, or when a road project is undertaken to keep the road usable until funding is available for a longer lasting fix). Warranties cost money, like insurance, and so add cost to projects both for the road agency and the contractor, which ultimately means less money for other construction work. Taken across all projects, and considering the relatively small number of warranties requiring corrective action, that could be a significant amount of money diverted from construction projects to no other effect.

An additional consideration is the degree to which the contracting community—much reduced because of Michigan's prolonged economic recession and the resulting lack of work—is able to accommodate greater warranty requirements. MDOT continues to work with its partners in the private sector to improve aspects of its warranties, but at the same time does not want to overburden a sector of the economy still struggling to bounce back from the recession.

MDOT is committed to accountability and performance measurement, and continually works to find the most efficient and effective means to deliver highway construction projects to improve or sustain the condition of Michigan's state trunkline system. MDOT supports the most recent legislative language that has been developed to expand construction warranties and looks forward to working with local road agencies to share its experience in this area with them.